



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 5/22/06 Signature: [Signature]  
(Susan Lanhey)

Docket No.: CWRU-P01-046  
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Laughlin et al.

Confirmation No.: 1488

Application No.: 10/730549

Art Unit: 1651

Filed: December 5, 2003

Examiner: L. B. Lankford

For: CELL-BASED THERAPIES FOR ISCHEMIA

**PETITION TO MAKE SPECIAL  
UNDER 37 CFR 1.102(d)**

MS Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Submitted herewith is a Petition to Make Special the above-identified patent application.

Pursuant to 37 C.F.R. § 1.102(d) and MPEP 708.02, Subsection XII (SPECIAL STATUS FOR APPLICATIONS RELATING TO BIOTECHNOLOGY FILED BY APPLICANTS WHO ARE SMALL ENTITIES), Applicants hereby petition to make special the instant biotechnology application, titled "CELL-BASED THERAPIES FOR ISHEMIA," filed on December 5, 2003 by Laughlin *et al.* (Application No. 10/730,549). Applicants request the required petition fee under 37 C.F.R. § 1.17(h) be charged to **Deposit Account No. 18-1945**.

Applicants hereby state that the instant application is assigned to Case Western Reserve University, a small entity nonprofit institution under 37 CFR 1.27(a)(3), and exclusively licensed to Arteriocyte, Inc. Arteriocyte, Inc. is a small business concern under 37 C.F.R. § 1.27(a)(2) entitled to claim small entity status.

Applicants further state that the subject of the instant patent application is a major asset of the small entity.

Applicants further state that the development of the technology will be significantly impaired if examination of the instant patent application is delayed, partly because continued

05/25/2006 MBE:REMI 00000015 181945 10730549  
01 FC:1464 130.00 DA

venture capital funding of the small entity partly depends on the holding, by the small entity, of strong intellectual property position, including issued patents, in the technology field of the instant application.

#### CONCLUSION

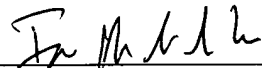
In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-951-7000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this submission be charged to **Deposit Account No. 18-1945**.

Accordingly, applicant requests that this Petition to Make Special be granted and the application undergo accelerated examination.

Please charge our Deposit Account No. 18-1945 in the amount of \$130.00 covering the fee set forth in 37 CFR 1.17(h). The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 18-1945, under Order No. CWRU-P01-046. A duplicate copy of this paper is enclosed.

Dated: May 22, 2006

Respectfully submitted,

By 

Ignacio Perez de la Cruz

Registration No.: 55,535

ROPES & GRAY LLP

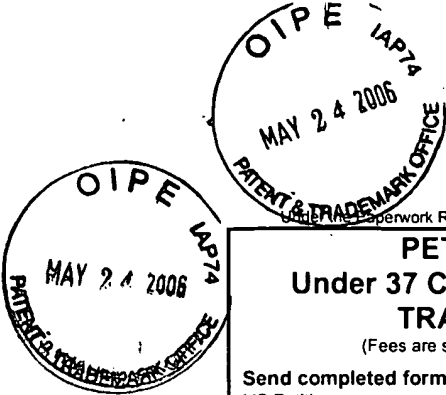
One International Place

Boston, Massachusetts 02110-2624

(617) 951-7000

(617) 951-7050 (Fax)

Attorneys/Agents For Applicant



<b>PETITION FEE</b> <b>Under 37 CFR 1.17(f), (g) &amp; (h)</b> <b>TRANSMITTAL</b> (Fees are subject to annual revision)  Send completed form to: MS Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	10/730549
	<b>Filing Date</b>	December 5, 2003
	<b>First Named Inventor</b>	Mary J. Laughlin
	<b>Art Unit</b>	1651
	<b>Examiner Name</b>	L. B. Lankford
	<b>Attorney Docket Number</b>	CWRU-P01-046

Enclosed is a petition filed under 37 CFR 1.102(d) that requires a processing fee (37 CFR 1.17(f), (g), or (h)). Payment of \$ 130.00 is enclosed.

This form should be included with the above-mentioned petition and faxed or mailed to the Office using the appropriate Mail Stop (e.g., Mail Stop Petition), if applicable. For transmittal of processing fees under 37 CFR 1.17(i), see form PTO/SB/17i.

**Payment of Fees** (small entity amounts are NOT available for the petition fees).

☒ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 18-1945 :

☒ Petition fee under 37 CFR 1.17(f), (g) or (h) ☒ Any deficiency of fees and credit of any overpayments

Enclose a duplicative copy of this form for fee processing.

☐ Check in the amount of \$ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Petition Fees under 37 CFR 1.17(f): Fee \$400 Fee Code 1462**

For petitions filed under:

§ 1.53(e) – to accord a filing date.

§ 1.57(a) – to accord a filing date.

§ 1.182 – for decision on a question not specifically provided for.

§ 1.183 – to suspend the rules.

§ 1.378(e) – for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741(b) – to accord a filing date to an application under § 1.740 for extension of a patent term.

**Petition Fees under 37 CFR 1.17(g): Fee \$200 Fee Code 1463**

For petitions filed under:

§ 1.12 – for access to an assignment record.

§ 1.14 – for access to an application.

§ 1.47 – for filing by other than all the inventors or a person not the inventor.

§ 1.59 – for expungement of information.

§ 1.103(a) – to suspend action in an application.

§ 1.136(b) – for review of a request for extension of time when the provisions of section 1.136(a) are not available.

§ 1.295 – for review of refusal to publish a statutory invention registration.

§ 1.296 – to withdraw a request for publication of a statutory invention registration filed on or after the date the notice of intent to publish issued.

§ 1.377 – for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.550(c) – for patent owner requests for extension of time in *ex parte* reexamination proceedings.

§ 1.956 – for patent owner requests for extension of time in *inter partes* reexamination proceedings.

§ 5.12 – for expedited handling of a foreign filing license.

§ 5.15 – for changing the scope of a license.

§ 5.25 – for retroactive license.

**Petition Fees under 37 CFR 1.17(h): Fee \$130 Fee Code 1464**

For petitions filed under:

§ 1.19(g) – to request documents in a form other than that provided in this part.

§ 1.84 – for accepting color drawings or photographs.

§ 1.91 – for entry of a model or exhibit.

§ 1.102(d) – to make an application special.

§ 1.138(c) – to expressly abandon an application to avoid publication.

§ 1.313 – to withdraw an application from issue.

§ 1.314 – to defer issuance of a patent.

  
Signature

Ignacio Perez de la Cruz  
Typed or printed name

May 22, 2006  
Date

55,535  
Registration No., if applicable

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: 5/22/06

Signature: 

(Susan Lanney)